IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 15453 of 2004
With
SPECIAL CIVIL APPLICATION No. 15454 of 2004
To
SPECIAL CIVIL APPLICATION No. 15458 of 2004

For Approval and Signature:
HON'BLE MR.JUSTICE P.B.MAJMUDAR Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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HIRALAL D CHAUHAN - Petitioner(s)
Versus
STATE OF GUJARAT & 5 –
Respondent(s)==========

Appearance :
MR MITUL K SHELAT for Petitioner No(s).: 1.
MR DA DESAI, AGP for Respondent No(s).: 1-3 & 6
MR HJ NANAVATI for Respondent No(s).: 4-5

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 25/07/2005
COMMON ORAL JUDGMENT

1. RULE in each of the petition. Mr.D.A. Desai, learned AGP appears and waives service of rule on behalf of

respondent Nos.1 to 3 and Mr.H.J.Nanavati, learned advocate, appears and waives service of rule on behalf of respondent Nos.4 and 5. Since the common issue is involved in each petition, all these petitions are taken up for final hearing with the consent of the parties.

2. The petitioners, in each of the petition, were appointed either in the teaching or non-teaching staff in the respondent No.4 – Institution. The respondent No.4 – Institution is a college run by Methodist Church in India and is a minority institution imparting eduction of PTC Course only to girls. Unfortunately, since recognization of the said institution was cancelled by the concerned department, the petitioners, in each of the aforesaid petition, were declared surplus from the said institution.

3. Mr.Shelat, learned advocate appearing on behalf the petitioners in each of the petition, states that there being no fault on the part of petitioners, necessary protection of their employment may be given. He submitted that the petitioners have rendered their service in the institution since long

and, therefore, they are required to be absorbed in some other institutions run by respondent – management. He further submitted that there are vacancies available in other institutions, wherein the petitioners can be accommodated.

4. Learned Single Judge of this Court on 23.03.2005 passed the following order:

> " Learned AGP Mr.Hasurkar states under instructions that grant for the salary of the petitioners upto August 2004 has been released by the Government. It is expected that the petitioners would be paid due salaries as expeditiously as possible.
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> 2. Learned advocate for the petitioners seeks permission to join the Commissioner of Mid-day Meals and Schools as party respondent No.6. Issue notice to the newly added respondent No.6 returnable on 6th April 2005. Respondent No.6 shall apprise the Court regarding the development on the request of the Management for absorbing the petitioners in other institutions as observed in the order dated 23.2.05.
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> 3. Counsel for the petitioners submits that there are vacancies available on which even the non-teaching staff can be accommodated in the institutions run by the same management. If that be so, learned advocate Shri Nanavati appearing for the Management assures that the Management will consider absorption of such persons also if they are found to be qualified and make such proposal to the Government."

5. Mr.HJ Nanavati, learned advocate appearing on behalf the respondent - management in this group of petitions, submitted that the respondent No.4 has already given written application to the State Government that certain vacancies are available in other institutions run by the same management and if government gives approval, management has no objection in absorbing such persons subject to their eligibility for such vacancies.

6. Mr.D.A.Desai, learned AGP, states that if the petitioners are qualified and eligible for such posts and if the management makes an application to the State Government, the Government shall consider their case.

7. Considering the aforesaid aspect of the matter, it is apparent that the petitioners were in the employment of the institution since long time and, therefore, the case of the petitioners for absorption in other institutions of the respondent management is required to be considered, if the concerned petitioners are qualified as per the Recruitment Rules and if an application for

appointment of such persons is made. On such application/request being made, the State Government shall consider the same in view of the fact that the petitioners were in service of the management since long time. The State Government shall grant approval so that the petitioners may not have to suffer for no fault on their part.

8. It is open for the Government to make necessary inquiry in this connection i.e. whether the petitioners are eligible for the available posts and even on the ground of available vacancies.

9. Rule is made absolute to the aforesaid extent. Liberty to apply in case of difficulty.

10. Registry to place a copy of this order in all connected matters.

Sd/-
[P.B.MAJMUDAR, J]

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*Bhavesh**